

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PHILLIP A. MIKLE, SR.,)	
)	
Petitioner,)	
)	
v.)	Case No. 1:22-CV-70
)	
WARDEN HUTCHINSON, et al,)	
)	
Respondents.)	

MEMORANDUM ORDER

This petition for writ of habeas corpus was received by the Clerk of Court on February 22, 2022. The matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Petitioner challenges his federal conviction and asserts that he is actually innocent of the underlying crime. He also challenges the validity of his sentence based on the allegedly unlawful application of a sentencing enhancement. Petitioner was convicted and sentenced by the United States District Court for the Southern District of Florida.

On April 28, 2023, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that petition be dismissed for lack of jurisdiction. ECF No. 27. Although he was given the opportunity to do so, Petitioner did not file any Objections to the Report and Recommendation.

Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2).

After *de novo* review of the petition and documents in the case, together with the report and recommendation thereto, the following order is entered:

AND NOW, this 26th day of May 2023;

IT IS ORDERED that the petition for writ of habeas corpus is dismissed for lack of jurisdiction. The Clerk is directed to close this case.

AND, IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on April 28, 2023 [ECF No. 27] is adopted as the opinion of the court.

/s/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States District Judge